

EXHIBIT 1

INTRODUCTION

Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee (the “Committee”) is a state general purpose recipient committee sponsored by the Hotel Employees and Restaurant Employees Union Local 11. At all times relevant to this matter, Respondent Maria Elena Durazo was the treasurer for Respondent Committee.

Under the authority of the Political Reform Act (the “Act”),¹ the Franchise Tax Board (the “FTB”) audited Respondent Committee’s activities during the period January 1, 1998 through December 31, 1998. During this audit period, Respondent Committee reported that it received contributions totaling \$140,045 and made expenditures totaling \$140,045.

Upon Respondent Committee legally qualifying as a recipient committee, Respondents were required by the Act to file certain campaign statements and reports, disclosing the contribution and expenditure activity of Respondent Committee. Respondents committed six violations of the Act, as set forth below, by failing to timely file a statement of organization, failing to file a pre-election campaign statement, and failing to disclose independent expenditures on two campaign statements and two late independent expenditure reports.

For the purposes of this Stipulation, Respondents’ violations of the Act are stated as follows:

COUNT 1: Respondents Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo failed file a statement of organization, on or before May 3, 1998, in violation of Section 84101, subdivision (a).

COUNT 2: Respondents Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo failed to file a pre-election campaign statement by May 21, 1998, for the reporting period January 1, 1998 through May 16, 1998, in violation of Section 84200.7, subdivision (a).

COUNT 3: Respondents Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo failed to accurately disclose independent expenditures of \$100 or more in a pre-election campaign statement, filed on October 23, 1998, for the reporting period July 1, 1998 through October 17, 1998, in violation of Section 84211, subdivision (j).

COUNT 4: Respondents Hotel Employees and Restaurant Employees Union, Local 11

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission appear at California Code of Regulations, Title 2, sections 18109-18996. All regulatory references are to Title 2 of the California Code of Regulations.

Political Action Committee and Maria Elena Durazo failed to accurately disclose independent expenditures of \$100 or more in support of Californians for Gray Davis, in a late independent expenditure report, for independent expenditures made during the late contribution reporting period October 18, 1998 through November 2, 1998, in violation of Section 84204, subdivision (b).

COUNT 5: Respondents Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo failed to accurately disclose independent expenditures of \$100 or more in opposition to Proposition 5, in a late independent expenditure report, for independent expenditures made during the late contribution reporting period October 18, 1998 through November 2, 1998, in violation of Section 84204, subdivision (b).

COUNT 6: Respondents Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo failed to accurately disclose independent expenditures of \$100 or more in a semi-annual campaign statement filed on February 1, 1999, for the reporting period October 18, 1998 through December 31, 1998, in violation of Section 84211, subdivision (j).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters may be better informed, and improper practices may be inhibited. To that end, the Act sets forth a comprehensive campaign reporting system designed to accomplish this purpose of disclosure.

Duty to File Campaign Statements

Under the Act's campaign reporting system, candidates and committees are required to file periodic campaign statements and reports disclosing their financial activities. Section 82013, subdivision (a) defines a "committee" as any person or combination of persons who directly or indirectly receive contributions totaling one thousand dollars (\$1,000) or more in a calendar year. This type of committee is commonly referred to as a "recipient" committee. There are different varieties of recipient committees under the Act. The nature of the recipient committee dictates where the committee shall file its campaign statements and reports.

Under Section 82027.5, subdivision (a), a recipient committee that is formed or exists primarily to support or oppose more than one candidate or ballot measure is a "general purpose committee." A "state general purpose committee," under Section 82027.5, subdivision (b), is a committee that exists to support or oppose candidates or measures voted on in a state election, or in more than one county.

As governed by Section 84215, subdivision (a), all state general purpose recipient

committees must file the their campaign statements with the office of the Secretary of State, the Registrar-Recorder of Los Angeles County and the Registrar of Voters of the City and County of San Francisco.

Duty to File a Statement of Organization

Section 84101, subdivision (a) requires every recipient committee to file a statement of organization with the Secretary of State within 10 days of qualifying as a committee. A committee qualifies as a recipient committee under Section 82013, subdivision (a) when the committee directly or indirectly receives contributions totaling one thousand dollars (\$1,000) or more during a calendar year.

Duty to File Pre-Election Campaign Statements

Section 84200.5, subdivision (d) requires a state general purpose recipient committee to file pre-election campaign statements for an election held on the first Tuesday after the first Monday in June of an even-numbered year, if the committee makes contributions totaling five hundred dollars (\$500) or more during the period covered by a pre-election statement. The committee shall file pre-election statements according to the schedule set forth at Section 84200.7

As governed by Section 84200.7, subdivision (a)(1), a recipient committee shall file a first pre-election campaign statement for the reporting period ending March 17, no later than March 22. Section 84200.7, subdivision (a)(2) requires a committee to file a second pre-election statement for the reporting period ending 17 days before the election, no later than 12 days before the election. The period covered by a pre-election campaign statement begins the day after the closing date of the last campaign statement filed by the committee, or January 1 if the committee did not previously file a statement.

Section 84200.5, subdivision (e) requires a state general purpose committee to file pre-election campaign statements for an election held on a date other than the first Tuesday after the first Monday in June of an even-numbered year, if the committee makes contributions totaling five hundred dollars (\$500) or more during the period covered by a pre-election statement. The committee shall file pre-election statements according to the schedule set forth at Section 84200.7

As governed by Section 84200.7, subdivision (b)(1), a recipient committee shall file a first pre-election campaign statement for the reporting period ending September 30, no later than October 5. Section 84200.7, subdivision (b)(2) requires a committee to file a second pre-election statement for the reporting period ended 17 days before the election, no later than 12 days before the election. The period covered by a pre-election campaign statement begins the day after the closing date of the last statement filed by the committee.

Duty to File Late Independent Expenditure Reports

Under the Act, recipient committees that make independent expenditures are required to disclose the independent expenditures that they make in independent expenditure reports.

Section 82031 defines an “independent expenditure” as an expenditure made by any

person in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage, or defeat of a clearly identified measure, or which taken as a whole and in context, unambiguously urges a particular result in an election, but is not made to, or at the behest of, the affected candidate or committee. Under Section 82036.5, a late independent expenditure includes any independent expenditure which totals in the aggregate one thousand dollars (\$1,000) or more, and is made for or against any specific candidate or measure involved in an election, during the 16 days immediately prior to the election in which the candidate or ballot measure is being voted on.

Under Section 84204, subdivision (a), a committee making a late independent expenditure must file a late independent expenditure report disclosing the independent expenditures within 24 hours of making the expenditure. Under Section 84204, subdivision (b), a committee making a late independent expenditure must report its full name and street address, as well as the name, office and district of the candidate to whom the report is related, and the amount and the date, as well as a description of goods or services for which the late independent expenditure was made.

Duty to File Semi-Annual Campaign Statements

As governed by Section 84200, subdivision (a), a recipient committee shall file two semi-annual campaign statements each year. The first semi-annual campaign statement must cover the reporting period January 1 to June 30, and must be filed by July 31. The second semi-annual campaign statement must cover the reporting period July 1 to December 31, and must be filed by January 31 of the following year. In any semi-annual period in which a committee is required to file pre-election campaign statements, the reporting period covered by the semi-annual campaign statement for that period is shortened from six months to the period between the closing date of the last pre-election statement and the end of the semi-annual period.

Duty to Disclose Campaign Expenditures

Section 84211 prescribes the required contents of campaign statements. Section 84211, subdivision (j),² as it existed in 1998 and 1999, required that for any expenditure of one hundred dollars (\$100) or more made to or on behalf of a candidate or measure supported or opposed by a committee, the committee's campaign statement must include the full name of the candidate or the number or letter of any measure supported or opposed by the committee, the candidate or measure's street address, and the amount of the expenditure.

Treasurer Liability

Section 81004, subdivision (b), Section 84100, and Regulation 18427, subdivision (a), require a committee's treasurer to ensure that the committee complies with the requirements of the Act concerning the receipt and expenditure of funds, and the reporting of such funds. Pursuant to Sections 83116.5 and 91006, a committee's treasurer may be held jointly liable, along with the committee, for any reporting violations committed by the committee.

² This code reference is to the subdivision as it existed in 1998, at the time of the subject violation. Section 84211 was amended in 2000, and these requirements are now embodied in subdivision (k) of that same section.

SUMMARY OF THE FACTS

Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee is a state general purpose recipient committee sponsored by the Hotel Employees and Restaurant Employees Union Local 11. At all times relevant to this matter, Respondent Maria Elena Durazo was the treasurer for Respondent Committee.

COUNT 1

Failure to File a Statement of Organization

On April 23, 1998, Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee received contributions for the 1998 calendar year which totaled, in the aggregate, at least \$14,100. As such, on April 23, 1998, Respondent Committee qualified as a recipient committee. Respondent Committee and Maria Elena Durazo were therefore required by Section 84101, subdivision (a) to file a statement of organization with the Secretary of State within ten days. However, Respondents failed to file a statement of organization with the Secretary of State by May 3, 1998, which was ten days later. By failing to file a statement of organization with the Secretary of State, by May 3, 1998, as set forth above, Respondents violated Section 84101, subdivision (a).

Respondents did not file a statement of organization until June 29, 1998, almost two months late.

COUNT 2

Failure to File a Pre-Election Campaign Statement

As a state general purpose recipient committee, Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee made four contributions totaling \$14,600 during the pre-election reporting period that ran from January 1, 1998 through May 16, 1998. Respondent Committee and Respondent Maria Elena Durazo were thereafter required to file a pre-election campaign statement by May 21, 1998 reporting the contributions received during the pre-election campaign reporting period. However, Respondents failed to file a second pre-election campaign statement by the May 21, 1998 due date, in violation of Section 84200.7, subdivision (a). By failing to file a second pre-election campaign statement by May 21, 1998, disclosing Respondent Committee's contributions during the pre-election reporting period, Respondents violated Section 84200.7, subdivision (a).

Respondents have not, to date, filed the outstanding pre-election campaign statement. However, Respondents disclosed Respondent Committee's campaign activity for the second pre-election campaign reporting period on Respondent Committee's subsequently filed semi-annual campaign statement for the period January 1, 1998 through June 30, 1998, filed with the Office of the Secretary of State on August 3, 1998.

COUNT 3

Failure to Disclose Independent Expenditures

On October 23, 1998, Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Respondent Maria Elena Durazo properly filed a pre-election campaign statement for the period July 1, 1998 through October 17, 1998, prior to the November 1998 general election. During the reporting period, Respondents made \$37,872.19 in contributions and independent expenditures during the pre-election reporting period prior to the November 3, 1998 general election. Yet, Respondents only reported \$9,061.04 of Respondent Committee's total campaign activity for the pre-election reporting period. Therefore, Respondents underreported the independent expenditures made by Respondent Committee by \$28,811.15. As such, Respondents failed to disclose, in a pre-election campaign statement, independent expenditures totaling \$28,811.15, in violation of the Act.

By failing to disclose pre-election independent expenditures on Respondent Committee's pre-election campaign statement, Respondents violated Section 84211, subdivision (j)(5).

COUNT 4

Failure to Disclose Independent Expenditures

During the period October 21-23, 1998, Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Respondent Maria Elena Durazo filed four late independent expenditure reports in which they inaccurately disclosed independent expenditures made on behalf of the Californians for Gray Davis Committee during the late independent expenditure reporting period. Respondents made \$66,492.27 in independent expenditures during the late independent expenditure reporting period. Yet, Respondents only reported \$50,175.12 of the independent expenditures made in support of the Californians for Gray Davis Committee. Therefore, Respondents underreported the independent expenditures made by Respondent Committee by \$16,317.15. As such, Respondents failed to disclose, in a late independent expenditure report, independent expenditures totaling \$16,317.15, in violation of the Act.

By failing to disclose late independent expenditures in a late independent expenditure report, Respondents violated Section 84204, subdivision (b).

COUNT 5

Failure to Disclose Independent Expenditures

During the period October 21-23, 1998, Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Respondent Maria Elena Durazo filed four late independent expenditure reports in which they inaccurately disclosed independent expenditures in opposition to Proposition 5 during the late independent expenditure reporting period. Respondents made \$66,492.27 in independent expenditures during the late independent expenditure reporting. Yet, Respondents only reported \$50,175.11 of the independent expenditures made in opposition to Proposition 5. Therefore, Respondents underreported the independent expenditures made by Respondent Committee by \$16,317.16. As such, Respondents failed to disclose, in a late independent expenditure report, independent expenditures totaling \$16,317.16, in violation of the Act.

By failing to disclose late independent expenditures in a late independent expenditure report, Respondents violated Section 84204, subdivision (b).

COUNT 6
Failure to Disclose Independent Expenditures

On February 1, 1999, Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Respondent Maria Elena Durazo filed a semi-annual campaign statement for the period October 18, 1998 through December 31, 1998. Respondents made \$132,979.81 in independent expenditures during the semi-annual reporting period October 18, 1998 through December 31, 1998. Yet, Respondents only reported \$100,345.50 of Respondent Committee's independent expenditures for the semi-annual reporting period. Therefore, Respondents underreported the independent expenditures made by Respondent Committee by \$32,634.31. As such, Respondents failed to disclose, in a semi-annual campaign statement, independent expenditures totaling \$32,634.31, in violation of the Act.

By failing to disclose contributions and independent expenditures on Respondent Committee's semi-annual campaign statement, Respondents violated Section 84211, subdivision (j)(5).

CONCLUSION

This matter consists of six counts, which carry a maximum possible administrative penalty of Twelve Thousand Dollars (\$12,000).

Respondents Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee and Maria Elena Durazo attribute their violations to being unaware of the filing obligations and deadlines associated with their campaign activity. Further, Respondents have taken steps to avoid similar violations in the future. Finally, neither Respondent Hotel Employees and Restaurant Employees Union, Local 11 Political Action Committee nor Respondent Maria Elena Durazo have a history of any prior enforcement action being taken against them.

The FTB audit did not reveal any information to indicate that Respondents' violations were anything other than the result of negligence. Therefore, standard administrative penalties are appropriate with regard to each violation, as addressed below.

Regarding Count 1, the typical stipulated administrative penalty for failing to file a statement of organization has historically ranged from \$1,000 to \$2,000 per statement. As this violation does not appear to be especially aggravated, imposition of an administrative penalty approximating the middle of the penalty range is appropriate.

Regarding Count 2, the typical stipulated administrative penalty for failing to file a pre-election campaign statement has historically ranged from \$1,500 to \$2,000 per statement. As this violation does not appear to be especially aggravated, imposition of an administrative penalty approximating the middle of the penalty range is appropriate.

Regarding Counts 3-6, the typical stipulated administrative penalty for failing to properly disclose campaign expenditures on required campaign statements has historically ranged from

\$1,000 to \$2,000 per statement. As these violations do not appear to be especially aggravated, imposition of an administrative penalty approximating the middle of the penalty range for each violation is appropriate.

The facts of this case therefore justify imposition of the agreed upon penalty of Nine Thousand Two Hundred Fifty Dollars (\$9,250).